

SERVICE DATE – MAY 17, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 434X)

BNSF RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN FERGUS COUNTY,
MT

Decided: May 16, 2006

BNSF Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a line of railroad between milepost 9.50 near Moore, MT, and milepost 28.35 near Lewiston, MT, the 1.30-mile Berg Lumber Spur (milepost 0.00 – milepost 1.30), and the Heath Spur (milepost 0.00 – milepost 1.10), a total distance of 21.25 miles in Fergus County, MT. Notice of the exemption was served and published in the Federal Register on December 14, 2005 (70 FR 74108-09).

By decision served on January 11, 2006 (January 2006 decision), the proceeding was reopened at the request of the Board's Section of Environmental Analysis (SEA), and the exemption was made subject to five environmental conditions,¹ including one that required BNSF to retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA).²

By letter dated April 6, 2006, BNSF indicated that, in consultation with SEA SHPO, and the Lewistown Historical Preservation Office (LHPO), it has proposed advancing with salvage operations in order to satisfy an immediate need to redeploy the track assets elsewhere. SHPO and LHPO have indicated that they have no objection. Therefore, SEA recommends that the existing historic preservation condition imposed in the January 2006 decision be replaced with the following condition: BNSF shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the section 106 process of the NHPA. However, BNSF may proceed with salvage of the rail and track materials (rails, ties, tie plates, and spikes) as long as all bridges, culverts, rights-of-way, or trail related structures and a designated section of 150 feet of trackage (location to be specifically designated in writing by LHPO prior to salvage) remain intact until completion of the section 106 process.

¹ The environmental conditions imposed in the January 2006 decision remain in effect.

² In the January 2006 decision, the Board also issued a notice of interim trail use (NITU) and imposed a public use condition. The NITU negotiating period and the public use condition will expire on July 12, 2006.

Accordingly, the proceeding will be reopened, and the previously imposed historic preservation condition will be replaced with the one currently recommended by SEA.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the section 106 historic preservation condition imposed in the January 2006 decision is replaced with the following condition: BNSF shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the section 106 process of the NHPA. However, BNSF may proceed with salvage of the rail and track materials (rails, ties, tie plates, and spikes) as long as all bridges, culverts, rights-of-way, or trail related structures and a designated section of 150 feet of trackage (location to be specifically designated in writing by LHPO prior to salvage) remain intact until completion of the section 106 process.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary